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4 DANIELLE STEINER, et al.,
5 Plaintiffs,
6 v.
7 VI-JON INC,
8 Defendant.

9 Case No. 23-cv-00473-AMO
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13 **ORDER DENYING MOTION FOR
14 LEAVE TO FILE A MOTION FOR
15 RECONSIDERATION**
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17 Re: Dkt. No. 74
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20 Before the Court is Defendant Vi-Jon, Inc.’s (“Vi-Jon”) motion for leave to file a motion
21 for reconsideration of the Court’s Order granting in part and denying in part Vi-Jon’s motion to
22 dismiss. On October 24, 2024, the Court held a conference with the parties to discuss whether Vi-
23 Jon’s proposed motion seeking reconsideration should be presented through a different procedural
24 mechanism. The Court does not here summarize the entirety of the conversation, but the parties
25 left the conference with directions to meet and confer regarding a briefing schedule on a narrowly
26 focused motion for summary judgment from Vi-Jon.

27 Upon further reflection, the Court finds that the proper procedural mechanism for the relief
28 sought by Vi-Jon is a motion for judgment on the pleadings under Federal Rule of Civil Procedure
12(c), not a motion under Rule 56. Vi-Jon substantively challenges the plausibility of Plaintiffs’
claims (*see* ECF 74), and for that reason, a motion for judgment on the pleadings is more
appropriate. *See Cafasso, U.S. ex rel. v. General Dynamics C4 Systems, Inc.*, 637 F.3d 413, 418
(9th Cir. 2012) (applying the particularity requirements of Rule 9(b) in the context of a Rule 12(c)
motion). Though it does not reach this conclusion at this time, the Court is inclined to find the test
results incorporated in the operative complaint by reference. *See Khoja v. Orexigen Therapeutics,*
Inc., 899 F.3d 988, 1002 (9th Cir. 2018) (discussing incorporation by reference doctrine).

Therefore, the Court **ORDERS** the parties to meet and confer and to submit a proposed briefing schedule on Vi-Jon's Rule 12(c) motion by no later than noon PST on October 31, 2024.

The Court hereby **DENIES** Vi-Jon's motion for leave to file a motion for reconsideration.

The Court hereby **STAYS** discovery pending resolution of Vi-Jon's Rule 12(c) motion.

IT IS SO ORDERED.

Dated: October 24, 2024



ARACELI MARTÍNEZ-OLGUÍN
United States District Judge

United States District Court
Northern District of California